

The Honorable John H. Chun

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,
Plaintiff

v.

JUAN E. HERNANDEZ-HERNANDEZ and
ALEJANDRO MACIAS-VELAZQUEZ,
Defendant.

NO. CR22-101 JHC

ORDER GRANTING MOTION TO
WITHDRAW GUILTY PLEA

THIS MATTER having come before the Court on a motion by defendant Juan E. Hernandez-Hernandez to withdraw his guilty plea, and the Court having considered the facts set forth in the motion and the records and files herein, the Court FINDS as follows:

1. On August 31, 2022, the Court continued trial on this matter to January 17, 2023.
2. On December 13, 2022, the Court continued trial to June 26, 2023, at 1:30 pm, as to defendant Alejandro Macias-Velazquez, upon factual findings establishing the need for a continuance.
3. On December 30, 2022, Hernandez-Hernandez appeared before Magistrate Judge Michelle L. Peterson and entered a plea of guilty as to Count 1 of the

1 Indictment, Conspiracy to Distribute a Controlled Substance, under his Plea
2 Agreement.

- 3 4. Judge Peterson recommended that Hernandez-Hernandez be adjudged guilty
4 subject to the Court's consideration of the Plea Agreement.
- 5 5. On January 19, 2023, before this Court accepted his guilty plea, Hernandez-
6 Hernandez filed a motion to withdraw his plea.
- 7 6. A defendant has the absolute right to withdraw his guilty plea before it is
8 accepted by the district court. *United States v. Alvarez-Tautimez*, 160 F.3d 573,
9 576 (9th Cir. 1998).
- 10 7. In a multi-defendant case, a reasonable trial continuance as to *any* defendant
11 tolls the Speedy Trial Act period as to *all* joined co-defendants. *See* 18 U.S.C.
12 § 3161(h)(6) ("A reasonable period of delay [is excluded] when the defendant
13 is joined for trial with a codefendant as to whom the time for trial has not run
14 and no motion for severance has been granted."); *United States v. Messer*, 197
15 F.3d 330, 337 (9th Cir. 1999) ("It is well established that an exclusion from the
16 Speedy Trial clock for one defendant applies to all co-defendants.").
- 17 8. Macias-Velazquez and Hernandez-Hernandez are joined in the indictment and
18 no motion to sever has been made or granted.
- 19 9. This Court having continued Macias-Velazquez's trial to June 26, 2023,
20 Hernandez-Hernandez shall be tried together with Macias-Velazquez on that
21 date.

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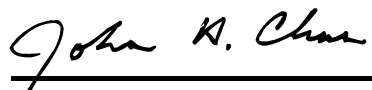
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1 IT IS THEREFORE ORDERED that the defendant's motion to withdraw his
2 guilty plea is GRANTED.

3 IT IS FURTHER ORDERED that trial for Hernandez-Hernandez and Macias-
4 Velazquez is set for June 26, 2023, at 1:30 pm. Pretrial motions are due May 18, 2023.

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6 DATED this 30th day of January, 2023.

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9 John H. Chun
10 United States District Judge

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12
13 Presented by:

14 s/ Yunah Chung
15 YUNAH CHUNG
16 Assistant United States Attorney